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	FBIE-00	H-01	INM-02	TEDE-00	INR-00	JUSE-00	L-01
	ADS-00	M-00	NEA-01	NSAE-00	NSCE-00	OIC-02	OIG-04
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	SSO-00	SS-00	STR-01	TRSE-00	T-00	USIE-00	SA-01
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INFO AMEMBASSY KINSHASA IMMEDIATE

AMEMBASSY KAMPALA IMMEDIATE

AMEMBASSY BUJUMBURA IMMEDIATE

AMEMBASSY DAR ES SALAAM IMMEDIATE

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E.O. 12356: N/A

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TAGS: PREL, UNSE, RW, ZA, TZ, BU, UG, PREF, PHUM
SUBJECT: RWANDA -- UNSC RESOLUTION ON WAR CRIMINALS

REF: A. STATE 754, B. KINSHASA 107, C. BUJUMBURA 60 D.
DAR ES SALAAM 258.

1. SUMMARY. THIS IS AN ACTION MESSAGE. SEE PARAS. 8 AND 9. DEPARTMENT PLANS TO PROPOSE A UN SECURITY COUNCIL RESOLUTION AUTHORIZING AND REQUESTING MEMBER STATES TO DETAIN RWANDAN WAR CRIMINALS IN THEIR TERRITORIES. THE RESOLUTION ALSO ASKS MEMBER STATES TO ARREST THOSE WHO ARE VIOLENTLY INTIMIDATING REFUGEES IN THE CAMPS. DEPARTMENT REQUESTS USUN AND UN SC POSTS TO SHARE OUR DRAFT TEXT WITH OTHER UNSC MEMBERS AND ASCERTAIN THEIR VIEWS ON DETENTION OF SUSPECTED WAR CRIMINALS. END SUMMARY.

2. CONSISTENT WITH OUR SUPPORT FOR ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA, THE U.S. WOULD SUPPORT A UN SECURITY COUNCIL RESOLUTION AUTHORIZING THE DETENTION OF PERSONS SUSPECTED OF COMMITTING GENOCIDE. WAR CRIMES AND OTHER CRIMES AGAINST HUMANITY IN RWANDA AS WELL AS CITIZENS OF RWANDA WHO HAVE COMMITTED SUCH CRIMES IN THE TERRITORY OF NEIGHBORING STATES DURING 1994.

3. MANY REPORTS INDICATE THAT LEADERS OF THE FORMER RWANDAN GOVERNMENT AND INTERAHAMWE MILITIAS ARE NOW TERRORIZING REFUGEES IN THE CAMPS OUTSIDE RWANDA AND HINDERING VOLUNTARY REPATRIATION TO RWANDA. SOME PARTICIPANTS IN THE 1994 GENOCIDE HAVE FLED TO OTHER COUNTRIES IN AFRICA AND EUROPE.

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4. TANZANIA PREVIOUSLY INDICATED IT WOULD WAIT UNTIL AN INTERNATIONAL TRIBUNAL IS ESTABLISHED TO ARREST THOSE ACCUSED OF GENOCIDE AND WAR CRIMES IN RWANDA. OTHER STATES HAVE SAID THEY LACK LEGAL AUTHORITY UNDER THEIR NATIONAL LAWS TO MAKE ARRESTS FOR CRIMES COMMITTED OUTSIDE THEIR TERRITORY BY NON-CITIZENS. THEY HAVE TOLD US THAT A UNSC RESOLUTION WOULD GIVE THEM NECESSARY LEGAL AUTHORITY TO TAKE ACTION DOMESTICALLY.

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5. WE HAVE SOUNDED OUT GOVERNMENTS OF STATES BORDERING RWANDA ON THEIR VIEWS ON DETENTION OF RWANDAN WAR CRIMES SUSPECTS, REFTTEL A. THE GOVERNMENTS OF ZAIRE, BURUNDI AND TANZANIA HAVE INDICATED THEY WILL COMPLY WITH A UNSC RESOLUTION CALLING UPON THEM TO DETAIN SUSPECTED WAR CRIMINALS AND HOLD THEM FOR TRIAL BEFORE THE INTERNATIONAL TRIBUNAL. ZAIRE, BURUNDI, AND TANZANIA HAVE ALSO SAID THEY WILL ARREST THOSE IN THEIR TERRITORIES WHO ARE TERRORIZING REFUGEES OR CONDUCTING PREPARATIONS FOR WAR. REFTELS B, C, D.

6. WE HAVE PREPARED A DRAFT RESOLUTION AUTHORIZING AND REQUESTING THAT MEMBER STATES DETAIN THOSE AGAINST WHOM THERE IS CREDIBLE EVIDENCE OF SUCH CRIMES (TEXT PARA. 10 BELOW) .

7. ACTION REQUESTED: USUN AND ACTION POSTS SHOULD APPROACH COUNTERPARTS AT THE APPROPRIATE LEVEL TO INFORM THEM THAT WE PLAN TO PROPOSE A UN SECURITY COUNCIL RESOLUTION AUTHORIZING DETENTION OF SUSPECTED RWANDAN WAR CRIMINALS. POSTS SHOULD SHARE THE TEXT OF OUR DRAFT
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RESOLUTION WITH HOST GOVERNMENTS.

8. POSTS SHOULD ASK HOST GOVERNMENT OFFICIALS WHETHER THEIR GOVERNMENTS WILL SUPPORT A UNSC RESOLUTION AUTHORIZING DETENTION BY MEMBER STATES OF RWANDANS AGAINST WHOM THERE IS CREDIBLE EVIDENCE OF RESPONSIBILITY FOR GENOCIDE OR WAR CRIMES . ALSO ASK THEM IF THEY WOULD SUPPORT A UNSC RESOLUTION AUTHORIZING MEMBER STATES TO ARREST RWANDANS IN THEIR TERRITORIES AGAINST WHOM THERE IS CREDIBLE EVIDENCE THAT THEY HAVE VIOLENTLY TERRORIZED

REFUGEES OR CONDUCTED PREPARATIONS FOR WAR. INFORM THEM THAT WE BELIEVE THIS MATTER SHOULD BE BROUGHT TO THE COUNCIL AS SOON AS POSSIBLE.

9. WHAT IS CREDIBLE EVIDENCE SUFFICIENT TO MAKE ARRESTS? STATES MAY DECIDE THAT ALLEGATIONS AGAINST A SUSPECT ARE SUFFICIENT TO JUSTIFY DETENTION BASED ON INFORMATION THEY OBTAIN ON THEIR OWN OR BASED ON INFORMATION PROVIDED BY

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OTHERS, IN PARTICULAR THE OFFICE OF THE PROSECUTOR OF THE INTERNATIONAL TRIBUNAL. WE URGE STATES TO CONTACT THE PROSECUTOR IF AUTHORITIES ARE NOT CERTAIN THAT THERE IS CREDIBLE INFORMATION AGAINST A PERSON AND, IN ANY EVENT, TO INFORM THE OFFICES OF THE SECRETARY-GENERAL AND THE PROSECUTOR WITHOUT DELAY AFTER THEY HAVE DETAINED A SUSPECT.

10. BEGIN TEXT OF DRAFT SECURITY COUNCIL RESOLUTION:

THE SECURITY COUNCIL,

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REAFFIRMING ALL ITS PREVIOUS RESOLUTIONS ON THE SITUATION IN RWANDA, IN PARTICULAR ITS RESOLUTIONS 925 (1994) 935 (1994), 955 (1994), AND 965 (1994),

EXPRESSING ONCE AGAIN ITS GRAVE CONCERN AT THE REPORTS INDICATING THAT SYSTEMATIC, WIDESPREAD AND FLAGRANT VIOLATIONS OF INTERNATIONAL LAW INCLUDING ACTS OF GENOCIDE, HAVE BEEN COMMITTED IN RWANDA,

NOTING THAT THESE REPORTS WERE CONFIRMED IN THE FINAL REPORT OF THE COMMISSION OF EXPERTS SUBMITTED PURSUANT TO RESOLUTION 935 (1994) (S/1994/1425),

HAVING ADOPTED RESOLUTION 955 (1994), CREATING THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA,

DETERMINED TO PUT AN END TO SUCH CRIMES AND TO TAKE EFFECTIVE MEASURES TO BRING TO JUSTICE THE PERSONS WHO ARE RESPONSIBLE FOR THEM,

CONCERNED BY THE CONDITIONS IN THE REFUGEE CAMPS OUTSIDE RWANDA, INCLUDING REPORTS OF VIOLENCE DIRECTED AGAINST REFUGEES WHO VOLUNTARILY WISH TO RETURN TO RWANDA,

NOTING THE REPORT OF THE SECRETARY-GENERAL ON SECURITY IN THE RWANDESE REFUGEE CAMPS OF 18 NOVEMBER 1994 (S/1994/1308),

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DETERMINING THAT THIS SITUATION CONTINUES TO CONSTITUTE A
THREAT TO INTERNATIONAL PEACE AND SECURITY,

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ACTING UNDER CHAPTER VII OF THE CHARTER OF THE UNITED
NATIONS,

1. AUTHORIZES AND REQUESTS MEMBER STATES TO DETAIN
PERSONS FOUND WITHIN THEIR TERRITORY AGAINST WHOM THERE IS
CREDIBLE EVIDENCE THAT THEY WERE RESPONSIBLE FOR ACTS OF
GENOCIDE OR OTHER SERIOUS VIOLATIONS OF INTERNATIONAL LAW
WITHIN THE JURISDICTION OF THE INTERNATIONAL CRIMINAL
TRIBUNAL FOR RWANDA;

2. CONDEMNS ALL ATTACKS AGAINST PERSONS IN THE REFUGEE
CAMPS NEAR THE BORDERS OF RWANDA, AND DEMANDS THAT SUCH
ATTACKS IMMEDIATELY CEASE, AND CALLS UPON MEMBER STATES TO
TAKE APPROPRIATE STEPS TO PREVENT SUCH ATTACKS;

3. AUTHORIZES AND REQUESTS MEMBER STATES TO DETAIN PERSONS
IN THEIR TERRITORY AGAINST WHOM THERE IS CREDIBLE EVIDENCE
THAT THEY VIOLATED NATIONAL OR INTERNATIONAL LAW BY
INCITING OR PARTICIPATING IN ACTS OF VIOLENCE IN REFUGEE
CAMPS IN STATES NEIGHBORING RWANDA, BY PARTICIPATING IN
PREPARATIONS FOR WAR AGAINST RWANDA OR OTHER ACTS OF
VIOLENCE AGAINST PERSONS IN RWANDA, OR BY ENGAGING IN
VIOLENT INTIMIDATION OF REFUGEES INTENDED TO PREVENT THEM
FROM RETURNING TO RWANDA;

4. REQUESTS THAT STATES DETAIN PERSONS PURSUANT TO
PARAGRAPHS 1 AND 3 ABOVE, PENDING PROSECUTION OF SUCH
PERSONS BY THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
OR BY THE APPROPRIATE NATIONAL AUTHORITIES;

5. DECIDES THAT ALL STATES DETAINING PERSONS FOR THE
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REASONS SPECIFIED IN PARAGRAPHS 1 AND 3 SHALL INFORM THE SECRETARY-GENERAL AND THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA OF THE IDENTITY OF PERSONS DETAINED, THE NATURE OF THE CRIMES BELIEVED TO HAVE BEEN COMMITTED, THE EVIDENCE PROVIDING PROBABLE CAUSE FOR THE DETENTIONS, THE DATE WHEN THE PERSONS WERE DETAINED, AND THE PLACE OF DETENTION;

6. CALLS UPON ALL STATES DETAINING PERSONS FOR THE REASONS SPECIFIED IN PARAGRAPHS 1 AND 3 TO ALLOW UNIMPEDED ACCESS TO THEM BY REPRESENTATIVES OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS, AS WELL AS BY INVESTIGATORS FOR THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

7. DECIDES TO REMAIN ACTIVELY SEIZED OF THE MATTER.

END TEXT OF DRAFT SECURITY COUNCIL RESOLUTION

11. MINIMIZE CONSIDERED. TALBOTT

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